

For Clerk's Office Use	
Judge	Rec'd
D	

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED
AUG 27 2020

BY: JULIA C. DUDLEY, CLERK
A. Beeson
DEPUTY CLERK

IN THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT
OF VIRGINIA

For use by inmates filing a complaint under CIVIL RIGHTS ACT, 42 U.S.C. §1983 or
BIVENS v. SIX UNKNOWN NAMED AGENTS OF FED. BUREAU OF NARCOTICS, 403
U.S.C. §388 (1971)

Malvin Avon Thomas

Plaintiff full name

529806

Inmate No.

v.

CIVIL ACTION NO.

7:20CJUSIS

Caleb Kramer

Defendant(s) full name(s)

William Chapman Goodwin

- A. Current facility and address: Middle River Regional Jail
350 Technology Drive, Staunton, VA 24401
- B. Where did this action take place? Augusta County Circuit Court
- C. Have you begun an action in state or federal court dealing with the same facts involved in this complaint?

Yes No

If your answer to A is Yes, answer the following:

1. Court: None

2. Case Number: None

- D. Have you filed any grievances regarding the facts of this complaint?

Yes No

1. If your answer is Yes, indicate the result:

Because the original indictment was nolle prosequi

2. If your answer is No, indicate why: and cannot be collaterally attacked or re-visited.

- E. Statement of Claim(s): State briefly the facts in this complaint. Describe what action(s) each defendant took in violation of your federal rights and include the relevant dates and places. **Do not give any legal arguments or cite any cases or statutes.** If necessary, you may attach additional page(s). Please write legibly.

Claim #1 – Supporting Facts – Briefly tell your story without citing cases or law:

Plaintiff was denied the Statutory right to be offered a trial within the Speedy trial Statute of Virginia. (See attachment)

Claim #2 – Supporting Facts – Briefly tell your story without citing cases or law:

Plaintiff was denied the Statutory right to be forever discharged from prosecution for the charged offenses by Virginia Statute.

- F. State what relief you seek from the Court. Make no legal arguments and cite no cases or statutes.

Punitive damages of two hundred thousand dollars

- G. If this case goes to trial do you request a trial by jury? Yes No ✓

- H. If I am released or transferred, I understand it is my responsibility to immediately notify the court in writing of any change of address after I have been released or transferred or my case may be dismissed.

DATED: 08/19/2020 SIGNATURE: 

VERIFICATION:

I, Melvin Avon Thomas, state that I am the plaintiff in this action and I know the content of the above complaint; that it is true of my own knowledge, except as to those matters that are stated to be based on information and belief, and as to those matters, I believe them to be true. I further state that I believe the factual assertions are sufficient to support a claim of violation of constitutional rights. Further, I verify that I am aware of the provisions set forth in 28 U.S.C. §1915 that prohibit an inmate from filing a civil action or appeal, if the prisoner has, on three or more occasions, while incarcerated brought an action or appeal in federal court that is dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is imminent danger of serious physical injury. I understand that if this complaint is dismissed on any of the above grounds, I may be prohibited from filing any future actions without the pre-payment of the filing fees. I declare under penalty of perjury the foregoing to be true and correct.

DATED: 08/19/2020 SIGNATURE: 

Attachment

1. Plaintiff's preliminary hearing was on December 5, 2019, in which he was indicted.
2. On January 27, 2020, the initial date was ordered for trial to commence on June 9, 2020, outside the Speedy trial Statute without any Specific Circumstances identified in the Statute on the Court's record as exceptions tolling the time for commencing the trial.
3. On April 20, 2020, Plaintiff asserted his right to a Speedy trial by a Motion to demand a trial. (For tolling the time within Statute).
4. On May 5, 2020, Was Five (5) months, the Statute deadline that the Plaintiff must be offered a trial.
5. On May 11, 2020, Plaintiff Attorney Motioned the Court to dismiss the indictments against Plaintiff for Violating the Virginia Statute, the Amendments to the United States Constitution, and Virginia Constitution.
6. On May 27, 2020, the Court denied Plaintiff's Motion to dismiss for Violating his rights.
7. On June 5, 2020, at 10:00 a.m. Plaintiff was charged with one additional indictment from May 26, 2020, for Conspiracy to Commit the Same Crime that he was not offered a trial within the Statute.
8. On June 5, 2020, at 11:45 a.m. the Court

Ordered the original indictments be nolle prosequi at the request of the Commonwealth Attorney over Plaintiff objections.

9. The nolle prosequi was being used as an unconstitutional weapon of prosecutorial misconduct, using oppressive unfair trial tactics to deny the Plaintiff his Statutory right to be forever discharged from prosecution for not offering the Plaintiff a trial within the timeline of the Speedy trial Statute on January 27, 2020. The Commonwealth Attorney also used unfair trial tactics to deny the Plaintiff his right to collaterally attack the denial of his Statutory rights violations by the way of appeal, because nolle prosequi can not be challenged.
10. The nolle prosequi did not terminate the Plaintiff's Criminal prosecution against him, nor leave the situation the same as if the Commonwealth of Virginia had chosen to make no charges at all, nor did it wipe the slate clean, as if the charges had never existed, because the additional indictment did not supplant the original indictments on May 26, 2020.
11. The Court Conspired with the Commonwealth Attorney to deny Plaintiff of his rights pursuant to the Virginia Statute, the Amendments to the United States Constitution and the Virginia Constitution.

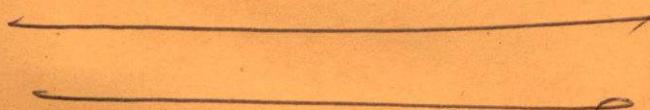
Malvin Thomas

Middle River Regional Jail
350 Technology Drive
Staunton, VA 24401

United Sta
Western
Offic
210 Fran
Roar

THIS
INMATE IN MIDDLE

Legal Mail





United States District Court
District of Virginia
Office of the Clerk
Klin Road, Suite 540
Richmond, VA 24011-2208

THIS PERSON IS AN
INMATE AT THE RIVER REGIONAL JAIL